THE HON'BLE SRI JUSTICE BILAL NAZKI
THE HON'BLE SRI JUSTICE P.S.NARAYANA
AND
THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT APPEAL NO: 2293 OF 2003
AND
WRIT PETITION NO: 15163 OF 1994

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Dt: 25.08.2006

Between:

W.A.No.2293 of 2003

The Chief General Manager, State Bank of India,
Local Head Office, Bank Street, Koti, Hyderabad.

…Appellant

and

Y.V.Rama Rao S/o.Y.Venkataiah

…Respondent

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THE HON'BLE SRI JUSTICE P.S.NARAYANA
AND
THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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COMMON JUDGMENT: (Per Hon'ble Sri Justice L.Narasimha Reddy)

Writ Appeal No.2293 of 2003 is filed by State Bank of India, aggrieved by the judgment, dated 30.10.2003, in W.P.No.16005 of 2003. The writ petition and the consequential writ appeal relate to the service conditions of Sri Y.V.Rama Rao, an employee of the bank. The same employee filed W.P.No.15163 of 1994, in relation to some other aspect of the service matter. W.P.No.16005 of 2003 was allowed, following the judgment rendered by a Division Bench of this court in W.A.No.176 of 2000, dated 24.8.2000.

When the present writ appeal came up for admission, a Division Bench of this court expressed its inability to follow the judgment in W.A.No.176 of 2000, and desired that the correctness of the same be examined by a Full Bench. Accordingly, an order of reference was passed on 29.10.2004, and as a result, Writ Appeal No. 2293 of 2003, and the connected matter i.e. W.P.No.15163 of 1994 are posted before this Full Bench.

For the sake of convenience, we refer the parties as arrayed in the writ petitions.

Briefly stated, the relevant facts are that the petitioner and several others were employed on temporary basis by the respondent bank, in the year 1967. The service of the petitioner was terminated in the year 1969. The common grievances of the persons similarly situated were agitated before various fora. The petitioner was required to appear in a written test held in October 1982, in pursuance of a settlement arrived at, between the respondent and the union of its employees. The purpose was to appoint selected persons, out of the said category, against the regular vacancies. The petitioner appeared in that test, but failed.

The petitioner raised an industrial dispute, which was taken up as I.D.No.26 of 1984, by the Industrial Tribunal (Central), Hyderabad. Through an award, dated 23.12.1985, the Tribunal directed reinstatement of the petitioner, with full back wages. W.P.No.220 of 1987, filed by the respondent, challenging the award, was dismissed by this Court on 2.2.1993. In W.A.No.377 of 1993, filed against the order in the writ petition, the dismissal of writ petition was upheld, through judgment dated 28.4.1993, but a direction was issued to the effect that the back wages shall be paid to the petitioner, only with

effect from 16.1.1976. Thereafter, the petitioner was reinstated into service.

The respondent informed the petitioner and other similarly situated employees that a written test would be conducted on 23.8.1994, and such of the employees who do not qualify in that test, would be removed from service. The petitioner filed W.P.No.15163 of 1994, and the same is listed before us for hearing. In view of the interim order passed therein, the petitioner continued in service, without appearing in the test.

Even while W.P.No.15163 of 1994 was pending, the petitioner made representation to the respondent, with a request to enroll him as member of the Provident Fund, and Family Pension Fund. Complaining that his request was not acceded to, the petitioner filed W.P.No.16005 of 2003. Apart from other facts, he pleaded that another employee, by name Srinivasa Rao, who was similarly situated, had approached this court by filing W.P.No.10557 of 1990, for identical relief, and that the same was allowed on 12.11.1999, directing that he shall be admitted as the member of Provident Fund and Family Pension Fund, and that W.A.No.176 of 2000 filed against it was dismissed.

We heard the learned Standing Counsel for the bank and learned counsel for the writ petitioner, at length.

From a perusal of the judgment in W.P.No.16005 of 2003, we find it that the writ petition was allowed, following the judgment in W.A.No.176 of 2000. There is no dispute that the facts of this case are similar, to those in the said judgment.

The Division Bench, which referred the matter to the Full Bench, was impressed by two facts. The first is that the petitioner was to have

been conferred with the benefit of a regular employee, though he continued on *ad hoc* basic, through out his service, and he was never subjected to any assessment, by any agency. The Division Bench felt that such a course would tell upon the efficacy of the functioning of the respondent bank. The second was that the rules framed by the respondent, in the mater of extending the benefit of family pension, took in its fold, only the regular employees, and not *ad hoc* employees.

We agree that the views expressed by the Division Bench have their own bearing on the functioning of organizations, particularly Public Sector Undertakings. Extension of benefit of a regular employee to the one, who continued on *ad hoc* basis, through out, would certainly weaken the efficiency of the institutions. Assessment of the eligibility at the initial stage and efficiency thereafter, at different levels, is not unknown to Service Law. Its necessity is more, in organizations, like banks.

However, one important fact dissuades us from answering the reference. The writ petitioner retired from service, few months after the writ petition was allowed. Other employees, who joined service along with him, on the same terms and conditions, are reaping the benefit of the Provident Fund and Family Pension, in pursuance of the directions issued by this Court, in different proceedings. It may not be fair, to differentiate the petitioner also.

Further, on verification from the learned Standing Counsel for the Bank, it has emerged that financial implication of the order in W.P.No.16005 of 2003, in the form of probable contribution by the bank to the Provident Fund, would be Rs.1,25,000/-. The writ petitioner would be entitled to reap the benefit of Provident Fund, if only he makes corresponding contribution. At this length of time, he

has to mobilize his own funds for that purpose. Further, enrolment of a person into Provident Fund, after retirement, is fraught with its own procedural bottlenecks. The continuance of the petitioner, in service, was based upon the award passed by the Industrial Tribunal and the orders passed by this court, from time to time. Under these circumstances, we are of the view that ends of justice would be met, if the respondent is required to pay a lump sum, in lieu of all the claims of the writ petitioner.

For the foregoing reasons, we allow W.A.No.2293 of 2003, by modifying the order passed in W.P.No.16005 of 2003, to the effect that the appellant therein shall pay a sum of Rs.1,00,000/- (one lakh), in full satisfaction of the claim of the respondent employee, within two months from today. We leave the correctness of the judgment in W.A.No.176 of 2000, to be dealt with in any other appropriate matter.

Since the petitioner retired from service, we are of the view that no further orders are necessary to be passed in W.P.No.15163 of 1994.

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(BILAL NAZKI, J)

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(P.S.NARAYANA, J)

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(L.NARASIMHA REDDY, J)

Date: 25-08-2006
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